

Thursday, February 1, 2008

The Board met at its offices at 450 N Street, Sacramento, at 9:35 a.m., Dr. Chu, Chairwoman, Ms. Yee, Vice Chair, Mr. Leonard and Ms. Steel present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

CHIEF COUNSEL MATTERS

PROPERTY TAX CHIEF COUNSEL MATTERS

Consideration of Policy Change – Welfare Exemption “Community Benefit Test” Under Revenue and Taxation Code section 214

Richard Moon, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff’s request for guidance on the proper interpretation and application of the “community benefit test” under Revenue and Taxation Code section 214 for purposes of the welfare exemption (Exhibits 2.1).

Speakers: Larry Stone, Santa Clara County Assessor
Michelle Graham, General Counsel International Community Foundation
Richard Kiy President and CEO, International Community Foundation
Ronald Coca, Supervisor Assessment Services, San Diego County Assessors Office
Bob Pagett, President, Assist International
Thomas R. Parker, Deputy County Counsel, Sacramento County, CAA
Bruce Dear, Placer County Assessor

Action: Ms. Yee moved that the proposed policy change be denied. The motion was seconded by Dr. Chu but no vote was taken.

The Board deferred consideration of this matter to March and directed staff to provide a revenue estimate of anticipated consequences of the proposed policy change.

Exhibits to these minutes are incorporated by reference.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Randall G. Tipton, 427078 (Continued from January 31, 2008)

1999, \$3,596.00 Tax, \$899.00 Delinquency Penalty, \$2,697.00 Fraud Penalty
2000, \$2,769.00 Tax, \$692.25 Delinquency Penalty, \$2,076.75 Fraud Penalty
2001, \$9,711.00 Tax, \$2,427.00 Delinquency Penalty, \$7,283.25 Fraud Penalty
2002, \$14,914.00 Tax, \$3,729.00 Delinquency Penalty, \$11,185.50 Fraud Penalty
2003, \$4,764.00 Tax, \$1,191.00 Delinquency Penalty, \$3,573.00 Fraud Penalty
2004, \$7,819.00 Tax, \$1,954.75 Delinquency Penalty, \$5,664.25 Fraud Penalty
2005, \$36,776.00 Tax, \$9,194.00 Delinquency Penalty, \$27,582.00 Fraud Penalty
2006, \$17,231.00 Tax, \$861.55 Underpayment Penalty, \$127.31 Monthly, \$12,923.00 Fraud Penalty

For Appellant: Karen L. Hawkins, Representative
For Franchise Tax Board: Suzanne Small, Tax Counsel
Carissa Lynch, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

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Issues: Whether respondent has met its burden of proof to show that, under the circumstances presented, its determination was reasonable that jeopardy existed as to the assessment or collection of tax against appellant.

Whether the Board has jurisdiction to determine the proper amount of the underlying assessment; and, if so, whether appellant has met its burden of proof to show that the assessment was in error.

Whether the Board has jurisdiction to determine whether the fraud penalties were properly imposed; and, if so, whether respondent has met its burden of proof to show that it properly imposed fraud penalties.

Lou Ambrose, Tax Counsel, Property Taxes Division, Legal Department, announced concessions by the Franchise Tax Board that would reduce the assessment (Exhibit 2.2).

Action: Upon motion of Dr. Chu, seconded by Ms. Yee and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board submitted the appeal for decision.

SALES AND USE TAX APPEALS HEARINGS

Sportsmobile West, 307997 (KHO)

10-1-99 to 12-31-02, \$16,737.69 Tax, \$00.00 Penalty

For Petitioner: Alan Feld, Taxpayer

For Sales and Use Tax Department: Robert Tucker, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issue: Whether petitioner is entitled to reimbursement for its expenses in pursuing this appeal.

Action: Upon motion of Mr. Leonard, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board ordered that no action be taken on the claim for reimbursement, and the petition otherwise be redetermined as recommended by the Appeals Division.

The Coca Cola Company, 193081, 186352, 288534 (OHA)

1-1-98 to 3-31-02, \$551,374.00 Tax

1-1-98 to 12-31-01, \$00.00 Tax

1-1-98 to 9-30-04, \$2,630,966.10 Tax

For Petitioner: Mark Weiss, Representative

Richard V. Carlson, Representative

Rolston A. Dyer, Taxpayer

For Sales and Use Tax Department: Trecia Nienow, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner purchased the subject parts for resale such that it is entitled to a tax-paid purchases resold allowance.

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Whether there is an unassessed deficiency for the audit period that would offset any overpayment as a result of petitioner's failure to claim allowable tax-paid purchases resold deductions.

Action: Upon motion of Dr. Chu, seconded by Ms. Yee and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

PUBLIC HEARINGS

Property Taxes – State Assessee's Presentations on Capitalization Rates and Other Factors Affecting Values.

Stanley Siu, Chief, State-Assessed Properties Division, Property and Special Taxes Department, made introductory remarks regarding 1) state assessee's presentations on capitalization rates and other factors and procedures affecting 2008-09 values of California state-assessed public utilities and railroads; and, 2) private railroad car assessee's presentations on factors and procedures affecting 2008-09 taxable values of private railroad cars. (Exhibit 2.3).

Speakers: Peter Michaels, Attorney, Law Office of Peter Michaels, spoke representing State-assessed gas/electric, inter-county pipeline, telephone and railroad companies.

CHIEF COUNSEL MATTERS

RULEMAKING CHIEF COUNSEL MATTERS

Proposed Revisions to Sales and Use Tax Regulation 1570, *Charitable Organizations*

Tim Treichelt, Tax Counsel, Property Taxes Division, Legal Department, made introductory remarks regarding proposed Rule 100 revisions to Sales and Use Tax Regulation 1570, *Charitable Organizations*, to incorporate the provisions of Revenue and Taxation Code section 6375.5 regarding the tax exemption for new children's clothing sold to a nonprofit organization for its distribution without charge (Exhibit 2.4).

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved amendments as recommended by staff.

Proposed Revisions to Sales and Use Tax Regulation 1620, *Interstate and Foreign Commerce*

Tim Treichelt, Tax Counsel, Property Taxes Division, Legal Department, made introductory remarks regarding proposed Rule 100 revisions to Sales and Use Tax Regulation 1620, *Interstate and Foreign Commerce*, to incorporate the provisions of Revenue and Taxation Code section 6405 regarding the tax exemption for property purchased in a foreign country and personally hand-carried into this state (Exhibit 2.5).

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Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board approved amendments as recommended by staff.

The Board recessed at 12:20 p.m. and reconvened at 1:30 p.m. with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel present.

SPECIAL TAXES APPEALS HEARING

Time Oil Company, 260451, 260452, 260453, 306239, 347465 (MT)

2001-2002, \$10,825.68 Fee and Claim for Refund

2003, \$24,585.90 Fee

2004, \$25,076.22 Fee

2006, \$25,954.33 Fee

For Petitioner:

Joseph Vinatieri, Attorney

Raymond Stromer, Taxpayer

Richard Gordon, Taxpayer

For Department of Public Health:

Tim Ford, Attorney

Valerie Charlton, Chief, Childhood Lead

Poisoning Prevention Branch

For Property and Special Taxes Department: Carolee Johnstone, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner is exempt from the Childhood Lead Poisoning Prevention Act fee because it was a motor vehicle fuel retailer, not a distributor.

Whether the regulations adopted by California Department of Public Health to implement the Childhood Lead Poisoning Prevention Act are invalid because the fees to be collected from motor vehicle fuel distributors do not accurately reflect their responsibility for environment lead contamination.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the claim and petition be submitted for decision.

CHIEF COUNSEL MATTERS

RULEMAKING CHIEF COUNSEL MATTERS

Overview of the California Administrative Procedures Act Rulemaking Requirements

Mr. Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, provided an overview of the California Administrative Procedures Act rulemaking requirements (Exhibit 2.6).

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The Board directed staff to transmit any and all textual changes to regulations, including nonsubstantial or solely grammatical changes, to the Board Members for review before the textual changes are submitted to the Office of Administrative Law (OAL). The Board also indicated that Board staff could make nonsubstantial or solely grammatical changes to the text of proposed regulations in response to recommendations from OAL staff made during OAL's review of proposed regulations without providing advance notice to the Board Members.

Petition to Amend Property Tax Rule 140.1, Requirements for Managing General Partner of Limited Partnership for Welfare Exemption for Low-Income Housing Properties

Richard Moon, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the petition to amend Property Tax Rule 140.1, *Requirements for Managing General Partner of Limited Partnership for Welfare Exemption for Low-Income Housing Properties* (Exhibit 2.7).

Speakers: Lenny Goldberg, California Tax Reform Association, representing Nonprofit Housing Association of Northern California
Paul Peninger, Policy Director, Nonprofit Housing Association of Northern California

Action: The Board deferred consideration of this matter to March and directed staff to work with interested parties to seek an administrative remedy to assist claimants in filing for the welfare exemption for low-income housing properties.

OTHER CHIEF COUNSEL MATTERS

Staff Report on Cable Television Property Tax Assessment

Mr. Robert Lambert, Acting Assistant Chief Counsel, Legal Department, provided a status report on the California Cable and Telecommunications Association's request for guidance regarding property tax assessment (Exhibit 2.8).

Speakers: Thomas Parker, Deputy County Counsel of Sacramento County, representing Sacramento County Assessor Kenneth D. Stieger and the California Assessors' Association
Jeffrey Sinsheimer, Coblenz, Patch, Duffy and Bass, representing the California Cable and Telecommunications Association

The Board directed staff to prepare an introductory overview of federal and state legal principles applicable to the assessment of cable television possessory interests.

Action: The Board deferred consideration of this matter to March.

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**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARING HELD JANUARY 31, 2008 AND CONTINUED FEBRUARY 1, 2008**

Randall G. Tipton, 427078

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board sustained the action with concession by the Franchise Tax Board.

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES
HEARING HELD JANUARY 31, 2008**

Swift Transportation Company, Inc., 266318

Final Action: Upon motion of Ms. Yee, seconded by Dr. Chu and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board sustained the action of the Franchise Tax Board.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS,
ADJUDICATORY**

Taiheiyo Cement USA, Inc., 332855 (Continued from January 31, 2008)

1998, \$1,668,152.00 Claim for Refund

1999, \$920,236.00 Claim for Refund

1999, \$180,415.00 Claim for Refund

Considered by the Board: Formal Opinion

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Yee, seconded by Dr. Chu and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board rescinded its vote of January 31, 2008.

Upon motion of Ms. Yee, seconded by Dr. Chu and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board sustained the action of the Franchise Tax Board and denied adoption of the formal opinion.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARING HELD
FEBRUARY 1, 2008**

The Coca Cola Company, 193081, 186352, 288534 (OHA)

Final Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the petitioner's supporting documents, the Department's response and provide its recommendation to the Board.

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FINAL ACTION ON SPECIAL TAXES APPEALS HEARING HELD FEBRUARY 1, 2008

Time Oil Company, 260451, 260452, 260453, 306239, 347465 (MT)

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and duly carried, Dr. Chu, Ms. Yee and Ms. Mandel voting yes, Mr. Leonard and Ms. Steel voting no, the Board ordered that the claim and petition be denied.

ADMINISTRATIVE SESSION**OTHER ADMINISTRATIVE MATTERS****Executive Director's Report**

Ramon Hirsig, Executive Director, introduced Randie Henry, Deputy Director, Sales and Use Tax Department, and David Gau, Deputy Director, Property and Special Taxes Department, who provided report on the Board's Security Deposits (Exhibit 2.9).

The Board directed staff to provide a Security Deposits Program update and response to Ms. Steel's recommendations in March.

CHIEF COUNSEL MATTERS**OTHER CHIEF COUNSEL MATTERS**

Amicus Brief, *State of Florida, Department of Revenue, v. Piccadilly Cafeteria, Inc.*, No. 07-312, cert. granted December 7, 2007. (In re Piccadilly Cafeteria, Inc., 484 F.3d 1299 (11th Cir. 2007))

Robert Stipe, Acting Assistant Chief Counsel, Legal Affairs Division, Legal Department, reported withdrawal of request regarding Amicus Brief, *State of Florida, Department of Revenue, v. Piccadilly Cafeteria, Inc.*, No. 07-312, cert. granted December 7, 2007. (In re Piccadilly Cafeteria, Inc., 484 F.3d 1299 (11th Cir. 2007)). (Exhibit 2.10.)

The Board directed staff to follow the outcome of this matter.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel absent, the Board made the following orders:

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California (Exhibit 2.11).

Candace Rossi, Staff Information Systems Analyst, Specialist, Technology Services Division, Headquarters

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Gary J. Choi, Associate Tax Auditor and Certified Public Accountant, West
Covina District Office
Ronald T. Yoshimoto, Associate Tax Auditor, Fresno Branch Office

Action: Adopt a resolution to Reed Schreiter, Attorney and Advisor to Board Member Dr. Chu's Office, extending its best wishes and its appreciation for his service to the State Board of Equalization and the State of California (Exhibit 2.12).

Action: Approve the Board Meeting Minutes of October 2-4, October 17, October 23-24, November 14-15, and December 11-13, 2007.

Dr. Chu read into the record a resolution to Reed Schreiter, Attorney and Advisor to Board Member Dr. Chu, and employee of the Board of Equalization.

ADOPTION OF BOARD COMMITTEE REPORTS AND APPROVAL OF COMMITTEE ACTIONS

Legislative Committee

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel absent, the Board approved the Legislative Committee report and the actions therein (Exhibit 2.13).

Committee votes were as follows:

2008 Legislative Proposals—Property Taxes

A recommendation to approve the consent agenda unanimously passed with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes. These items are as follows:

Amends Sections 480.3 and 480.4 of the Revenue and Taxation Code to remove the specific detail of the Preliminary Change in Ownership Report from statute and instead authorize the Board to prescribe the form after consultation with the California Assessors' Association and interested parties.

Amend Government Code section 15606.5 and Revenue and Taxation Code sections 670 and 671 to allow the Board to deliver online continuing education training to certificated property tax appraisers through established web based systems maintained by community colleges that charge fees for online courses.

Amend Revenue and Taxation Code section 214.6 to clarify the filing procedures for obtaining a property tax exemption on property owned by a church or a nonprofit organization that is leased to a public school.

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A recommendation to amend Revenue and Taxation Code sections 69 and 69.3 to treat land and improvements as separate units in meeting the "substantially damaged or destroyed" threshold of 50% for purposes of qualifying for disaster relief via a base year value transfer unanimously passed with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes.

A recommendation to amend Revenue and Taxation Code section 279 to (1) expressly address the continuity of the disabled veterans' exemption on a home that had been receiving the exemption but temporarily uninhabitable due to damage and (2) provide that in governor-proclaimed disasters in which a home is completely destroyed, the veteran may retain the exemption on the property while rebuilding, unanimously passed with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes.

2008 Legislative Proposals—Business Taxes (Sales and Use Tax)

A recommendation to adopt the addition of Section 6487.06 to the Revenue and Taxation Code to reduce the period of time for which a determination may be mailed from eight years to three years when unregistered in-state purchasers, as defined, voluntarily report to the Board purchases subject to use tax, unanimously passed with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes.

The matter of adding Section 6593.7 to the Revenue and Taxation Code to prohibit the accrual of interest on unpaid sales and use tax liabilities during the pendency of a Chapter 7 bankruptcy proceeding of a small business, as defined, was withdrawn.

Secure and Affordable Health Care Act of 2008

Discussion of Implementation Issues regarding proposed Tobacco Products Excise Tax and related issues and direction to staff.—Withdrawn

Women, Infants, and Children (WIC) Program

Committee directed staff to reinstate the sales tax permit and monitor the situation on an ongoing basis to ascertain whether more than one taxpayer is impacted.

Business Taxes Committee

Action: Upon motion of Ms. Yee, seconded by Dr. Chu and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel absent, the Board approved the Business Taxes Committee report and the actions therein (Exhibit 2.14).

Committee votes were as follows:

Proposed amendments to Sales and Use Tax Regulation 1807, *Process for Reviewing Local Tax Reallocation Inquiries*, adoption of Regulation 1828, *Process for Reviewing Transactions and Use Tax Distribution Inquiries*:

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A recommendation to retain the first sentence of 1807(d)(4) and 1828(d)(4) and delete the remaining language under those subdivisions unanimously passed with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes..

A recommendation to approved the remainder of the regulations as proposed in Alternative 2; which included the transition rule language for Regulation 1807 submitted by MuniServices on January 30, 2008 at 4:43 P.M. and substantially identical transition rule language for Regulation 1828 unanimously passed with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes..

A recommendation to authorized Publication of the proposed Regulations 1807 and 1828 unanimously passed with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes..

Property Tax Committee

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel absent, the Board approved the Property Tax Committee report and the actions therein (Exhibit 2.15).

Committee votes were as follows:

Forms to Implement Senate Bill 87, Fractionally Owned Aircraft

A recommendation to adopt staff's proposed forms BOE-570-FO-1 and BOE-570-FO-2 as presented in Issue Paper 08-001 duly passed with Dr. Chu, Ms. Yee, Ms. Steel and Ms. Mandel voting yes, Mr. Leonard voting no.

Update on the Status of the Valuation Factors Studies

A recommendation to bring the Biopharmaceutical equipment and fixtures study back to the May 2008 Property Tax Committee meeting. unanimously passed with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes.

Customer Service and Administrative Efficiency Committee

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel absent, the Board approved the Customer Service and Administrative Efficiency Committee report as amended and the actions therein (Exhibit 2.16).

OTHER ADMINISTRATIVE MATTERS

Executive Director's Report

Ramon Hirsig, Executive Director, introduced Will Bush, Director, Department of General Services, and Doug Button, Director of Real Estate, who provided a headquarters building update. Mr. Bush reported the completion of the curtain wall system, the precast

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concrete panels, replacement of expansion joints in the parking garage of the building and rebuilding and renovation of the 23rd floor balcony. Final inspection of the balcony work has been delayed due to weather storms. A state of emergency with regard to the building was declared in September upon discovery of mold on the 22nd floor due to prior leakage on the 23rd floor balcony, and in ceiling tiles on the 24th floor from a roof leak. Each floor of the building will be thoroughly reviewed. Mr. Button reported that remediation of the 23rd floor is underway and remediation plans are being developed for the 22nd and 24th floors. Repainting and carpet replacement is anticipated to be completed and ready for occupancy on the 24th floor April 30, 23rd floor June 30, and 22nd floor July 31, 2008. Historical information relating to water leakage has been overlaid onto floor plans and consultants will look at each of those areas to assist in determining whether or not any additional work is needed.

Deputy Director's Report

Elizabeth Houser, Deputy Director, Administration Department, provided a budget update for 2008-2009.

Ms. Houser also provided a report on the New York District Office Relocation Project (Exhibit 2.17).

Mr. Leonard requested a report on the cost effectiveness of out of state offices.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Steel absent, the Board approved the staff recommendation.

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 4:35 p.m. and reconvened immediately in closed session with Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss pending litigation (Gov. Code § 11126(e)) and personnel matters (Gov. Code § 11126(a)).

The Board recessed at 5:55 p.p. and reconvened immediately in open session with Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Mandel present.

Ramon Hirsig, Executive Director, announced the appointment of David E. Hayes to the position of CEAI, Chief of the Research and Statistics Section, Legislative and Research Division.

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The Board adjourned at 6:00 p.m.

The foregoing minutes are adopted by the Board on April 8, 2008.

Note: The following matter was removed from the calendar prior to the meeting: *Untimely or Late-filed Appeals Materials Staff recommendation for Board distribution policy.*